IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Hans-Hermann Wippersteg	Group No.: 3689
Serial No.: 10/051,876	Atty. Docket No.: 459156-103
Filed: 01/17/2002	
For: Method for Planning a Repair of Mobile Machines	Examiner: MICHAEL J. FISHER

MAIL STOP APPEAL BRIEF-PATENTS
Honorable Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Responsive to the Examiner's Answer of April 27, 2010 and pursuant to 37 CFR §41.37, Applicant submits the following Reply Brief. It is not believed that any additional extensions of time or payment of additional fees are required. However, in the event that any extensions of time or additional fees are necessary to prevent abandonment of this appeal, then such extensions of time are hereby petitioned for, and any fees required are hereby authorized to be charged to Deposit Account 11-0160.

RESPONSE TO ARGUMENTS

Applicant's invention, as structurally recited in the lead independent Claim 53 recites, three separate data sets and a processor that generates in response to requests a unique repair plan for each of many individual agricultural machines such as combines. The repair plan has unique repair steps responsive to individual information for that individual machine from each of the three separate data sets. Each data set corresponds to and records a different stage of the individual machine's history. The first data set is comprised of a basic repair plan for a given repair based on the original design of the agricultural machine. The second data set corresponds to and records modifications of components or assemblies in that individual machine made at the factory during its production, recited as "pre-service life design changes." The third data set records changes and modifications in the particular machine during its service life.

None of the prior art of record recites more than a single data set. The failure to recite more than one data set in the prior art references, let alone the failure to recite that the data sets store data from distinct stages in the history of an individual machine, is in and of itself a failure to establish a prima fascia case of obviousness.

No prior art reference of record recites a second data set recording pre-service life design changes. The Examiner's Office Action and reply admit as much, "Parrillo [U.S. Patent No. 5,442,553] does not, however, teach storing pre-service life design changes". *See*, Examiner's Answer, page 4.

The Examiner claims that the Abelow reference, U.S. Patent No. 5,999,908, "teaches an electric repair manual that is updated to reflect changes to the machines (Col. 31, lines 35-39) to be serviced. Further, Abelow teaches this to be done remotely from the machines (Col. 2, lines 13-20)." *See*, Examiner's Answer, page 4.

This is false.

The Abelow reference has nothing to do with preparing any sort of repair or plan for repair, either in the art of agricultural machines, or in the nonanaligous art of software development to which it is actually directed. The Abelow reference is a "customer-based product design module" (*See*, title) that facilitates the design of new products incorporating feedback from customers on previous products. What Abelow actually says at the portions cited by the Examiner is:

> "While an Instrument Design Repository (IDR) helps support the standardizing of Customer Probes across a product line or by product features, which enables cross-cutting comparisons, it also supports customizing the Customer Design Instrument to produce unique learning from each product and from each type of trigger 234 when it is used Standardized probes permit comparisons between products and over time, to identify common strengths, weaknesses and Customer-based suggestions for improvements. By applying similar probes across a product family, the learning generated from one product or market may be generalized to others. Customization enables unique learning based on each specific product or service, and on one product's evolving set of Customer Design Instruments (CDI) which are modified as that product is iteratively improved over time." Col. 31, lines 24-39.

The second citation to the Abelow reference actually states:

> "This Customer-Based Product Design Module invention uses a combination of computer hardware, software and communications technologies to construct a module that is built into certain products and services, to establish a network of

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customer-vendor-distributor interactions and communications (or a network of

internal organization-wide interactions in the area of computer-based

performance). These make possible new customer and user roles in the design and

development of products and services, and customer-vendor relationships. Over

time, this may produce a gradual transfer to customers of commercial direction

and market control, both in individual cases (such as the evolution of a particular

product) and in aggregate, from vendors and distributors." Col. 2, lines 13-26.

In fact, the word "repair" only appears in the Abelow reference on three occasions, which

are cited below, first:

"A fourth example is a product that might suffer any type of a problem,

breakdown or cause user-interface confusion. The CB-PD Module might have a

"Help button" and the Customer would press it whenever there is a problem,

suggestion or need that the Customer wants to report. The product would use its

native recording capability, the CB-PD Module would use its recording

capabilities, or the Customer would be instructed in one of the alternative

recording options described below. In the simplest example, the Customer might

press the CB-PD Module's Help button 1 to 4 times to answer a 4-part multiple

choice question, and the customer replies could be stored in the internal Module.

This data could be returned to the vendor by one of the means described in the

preferred embodiments, such as by reading the CB-PD Module when the product

is returned for *repair* to the Vendor or to a service center." Col. 11, Lines 45 - 60.

Second:

"The Parties In This Invention

To facilitate the description further, it is worthwhile to define some of the players in the product design process that is envisioned by this CB-PD Module invention: (a) The Customer ...

(d) The Service Company is a company that provides post-sale *repair* or support to the Customer." Col. 17, lines 22 - 23.

And third:

"Optionally, the stored Aggregate Customer Desires (ACD) data may be encrypted. This protects it from theft, tampering, or other types of interference or damage. For example, if a standardized CB-PD Module were added to a variety of electronic products, it could become routine for a third-party service and *repair* business to remove them from those products 322, 324, insert them into a Customer Data Reader/Programmer (CDRP) and press a function key to transmit the data to the appropriate Vendor 326 (and the Vendor's computer would update the CB-PD Module while it was on-line). For another example, if multi-direction communications are possible with a CB-PD Module, then multiple third-parties may be able to establish communications links with the CB-PD Module. In those and in other types of situations, it may be desirable to encrypt the Aggregate Customer Desires (ACD) data, to prevent the CB-PD Modules from being read and their data sold to competitors." Col. 47, lines 41 - 58.

Mere hand waving does not constitute a prima fascie case of obviousness. Most of the citations to prior art read by the Examiner to teach most of the claim limitations currently pending are inaccurate glosses of the facts. However, the limitations raised above are simply not
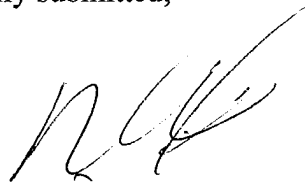
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in the prior art, and misreadings of what is taught in the prior art will not make it so. The prior art does not disclose or teach that there be three data sets, that the data sets correspond to and comprise different actual components and configurations added or changed in an individual machine during three separate stages of its history and executed by three different groups of people (designers, factory modifiers and service life users) or that a processor generate a unique repair plan for each unique repair request, for an individual machine, based on the data in all three data sets, which is what is claimed.

The next most egregious failure of the Office Actions and Examiner's Answer to state a prima fascie case of obviousness occurs with regard to claim 69, which structurally recites a repair vehicle. The Examiner's Answer, on page 6, like the Office Actions before it, tacitly admits that this structural recitation is not in the prior art, because it makes no attempt to cite to any prior art. It merely states that this new and different structural recitation would have been obvious, without any citation to a teaching, suggestion, motivation, design incentive or any other recognized obviousness rationale either pre or post KSR.

CONCLUSION

Because the prior art of record fails to establish a prima fascia case of obviousness against lead independent claim 53, the claims should be held allowable over the prior art of record. Because the prior art of record fails to establish a prima fascia case of obviousness for a remote repair vehicle, or any of a variety of other dependent claims, dependent claim 69 and others should be deemed allowable over the prior art of record.

Respectfully submitted,

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